

1 AN ACT concerning municipalities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-31-1 as follows:

6 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

7 Sec. 11-31-1. Demolition, repair, enclosure, or
8 remediation.

9 (a) The corporate authorities of each municipality may
10 demolish, repair, or enclose or cause the demolition, repair,
11 or enclosure of dangerous and unsafe buildings or uncompleted
12 and abandoned buildings within the territory of the
13 municipality and may remove or cause the removal of garbage,
14 debris, and other hazardous, noxious, or unhealthy substances
15 or materials from those buildings. In any county having
16 adopted by referendum or otherwise a county health department
17 as provided by Division 5-25 of the Counties Code or its
18 predecessor, the county board of that county may exercise
19 those powers with regard to dangerous and unsafe buildings or
20 uncompleted and abandoned buildings within the territory of
21 any city, village, or incorporated town having less than
22 50,000 population.

23 The corporate authorities shall apply to the circuit
24 court of the county in which the building is located (i) for
25 an order authorizing action to be taken with respect to a
26 building if the owner or owners of the building, including
27 the lien holders of record, after at least 15 days' written
28 notice by mail so to do, have failed to put the building in a
29 safe condition or to demolish it; ~~or~~ (ii) for an order
30 requiring the owner or owners of record to demolish, repair,
31 or enclose the building or to remove garbage, debris, and

1 other hazardous, noxious, or unhealthy substances or
2 materials from the building; or (iii) for an order
3 authorizing the demolition or boarding up of the building, if
4 the building is located within 500 feet of any bridge,
5 tunnel, rail line, mass transit line, airport, school,
6 university, police station, fire station, State or federal
7 court building, State, federal, or local government building,
8 water filtration station, water pumping station, electrical
9 transfer station, electrical generation facility, natural gas
10 or other utility facility, or place of public assembly with a
11 capacity of over 250 persons. Notwithstanding any other
12 provision of this Section to the contrary, an order may be
13 issued under clause (iii) whenever a court finds that a
14 building is unsafe after a hearing conducted at least 7 days
15 after notice is mailed to the owner under this Section.
16 Whenever an order to demolish a building under clause (iii)
17 is necessary to protect against an immediate threat to public
18 safety, the building shall be ordered demolished regardless
19 of whether the building has been boarded up. It is not a
20 defense to the cause of action that the building is boarded
21 up or otherwise enclosed, although the court may order the
22 defendant to have the building boarded up or otherwise
23 enclosed. Where, upon diligent search, the identity or
24 whereabouts of the owner or owners of the building, including
25 the lien holders of record, is not ascertainable, notice
26 mailed to the person or persons in whose name the real estate
27 was last assessed is sufficient notice under this Section.

28 The hearing upon the application to the circuit court
29 shall be expedited by the court and shall be given precedence
30 over all other suits. A hearing under clause (iii) of this
31 subsection (a) shall be heard as an emergency matter, and the
32 court may provide for posting of a bond to secure against
33 claims of other parties who may have or claim an interest in
34 the property, as well as for additional notice to such

1 additional parties; provided that such additional notice
2 shall not be a condition precedent to the municipality's
3 right to relief. Any person entitled to bring an action under
4 subsection (b) shall have the right to intervene in an action
5 brought under this Section.

6 The cost of the demolition, repair, enclosure, or removal
7 incurred by the municipality, by an intervenor, or by a lien
8 holder of record, including court costs, attorney's fees, and
9 other costs related to the enforcement of this Section, is
10 recoverable from the owner or owners of the real estate or
11 the previous owner or both if the property was transferred
12 during the 15 day notice period and is a lien on the real
13 estate; the lien is superior to all prior existing liens and
14 encumbrances, except taxes, if, within 180 days after the
15 repair, demolition, enclosure, or removal, the municipality,
16 the lien holder of record, or the intervenor who incurred the
17 cost and expense shall file a notice of lien for the cost and
18 expense incurred in the office of the recorder in the county
19 in which the real estate is located or in the office of the
20 registrar of titles of the county if the real estate affected
21 is registered under the Registered Titles (Torrens) Act.

22 The notice must consist of a sworn statement setting out
23 (1) a description of the real estate sufficient for its
24 identification, (2) the amount of money representing the cost
25 and expense incurred, and (3) the date or dates when the cost
26 and expense was incurred by the municipality, the lien holder
27 of record, or the intervenor. Upon payment of the cost and
28 expense by the owner of or persons interested in the property
29 after the notice of lien has been filed, the lien shall be
30 released by the municipality, the person in whose name the
31 lien has been filed, or the assignee of the lien, and the
32 release may be filed of record as in the case of filing
33 notice of lien. Unless the lien is enforced under subsection
34 (c), the lien may be enforced by foreclosure proceedings as

1 in the case of mortgage foreclosures under Article XV of the
2 Code of Civil Procedure or mechanics' lien foreclosures. An
3 action to foreclose this lien may be commenced at any time
4 after the date of filing of the notice of lien. The costs of
5 foreclosure incurred by the municipality, including court
6 costs, reasonable attorney's fees, advances to preserve the
7 property, and other costs related to the enforcement of this
8 subsection, plus statutory interest, are a lien on the real
9 estate and are recoverable by the municipality from the owner
10 or owners of the real estate.

11 All liens arising under this subsection (a) shall be
12 assignable. The assignee of the lien shall have the same
13 power to enforce the lien as the assigning party, except that
14 the lien may not be enforced under subsection (c).

15 If the appropriate official of any municipality
16 determines that any dangerous and unsafe building or
17 uncompleted and abandoned building within its territory
18 fulfills the requirements for an action by the municipality
19 under the Abandoned Housing Rehabilitation Act, the
20 municipality may petition under that Act in a proceeding
21 brought under this subsection.

22 (b) Any owner or tenant of real property within 1200
23 feet in any direction of any dangerous or unsafe building
24 located within the territory of a municipality with a
25 population of 500,000 or more may file with the appropriate
26 municipal authority a request that the municipality apply to
27 the circuit court of the county in which the building is
28 located for an order permitting the demolition, removal of
29 garbage, debris, and other noxious or unhealthy substances
30 and materials from, or repair or enclosure of the building in
31 the manner prescribed in subsection (a) of this Section. If
32 the municipality fails to institute an action in circuit
33 court within 90 days after the filing of the request, the
34 owner or tenant of real property within 1200 feet in any

1 direction of the building may institute an action in circuit
2 court seeking an order compelling the owner or owners of
3 record to demolish, remove garbage, debris, and other noxious
4 or unhealthy substances and materials from, repair or enclose
5 or to cause to be demolished, have garbage, debris, and other
6 noxious or unhealthy substances and materials removed from,
7 repaired, or enclosed the building in question. A private
8 owner or tenant who institutes an action under the preceding
9 sentence shall not be required to pay any fee to the clerk of
10 the circuit court. The cost of repair, removal, demolition,
11 or enclosure shall be borne by the owner or owners of record
12 of the building. In the event the owner or owners of record
13 fail to demolish, remove garbage, debris, and other noxious
14 or unhealthy substances and materials from, repair, or
15 enclose the building within 90 days of the date the court
16 entered its order, the owner or tenant who instituted the
17 action may request that the court join the municipality as a
18 party to the action. The court may order the municipality to
19 demolish, remove materials from, repair, or enclose the
20 building, or cause that action to be taken upon the request
21 of any owner or tenant who instituted the action or upon the
22 municipality's request. The municipality may file, and the
23 court may approve, a plan for rehabilitating the building in
24 question. A court order authorizing the municipality to
25 demolish, remove materials from, repair, or enclose a
26 building, or cause that action to be taken, shall not
27 preclude the court from adjudging the owner or owners of
28 record of the building in contempt of court due to the
29 failure to comply with the order to demolish, remove garbage,
30 debris, and other noxious or unhealthy substances and
31 materials from, repair, or enclose the building.

32 If a municipality or a person or persons other than the
33 owner or owners of record pay the cost of demolition, removal
34 of garbage, debris, and other noxious or unhealthy substances

1 and materials, repair, or enclosure pursuant to a court
2 order, the cost, including court costs, attorney's fees, and
3 other costs related to the enforcement of this subsection, is
4 recoverable from the owner or owners of the real estate and
5 is a lien on the real estate; the lien is superior to all
6 prior existing liens and encumbrances, except taxes, if,
7 within 180 days after the repair, removal, demolition, or
8 enclosure, the municipality or the person or persons who paid
9 the costs of demolition, removal, repair, or enclosure shall
10 file a notice of lien of the cost and expense incurred in the
11 office of the recorder in the county in which the real estate
12 is located or in the office of the registrar of the county if
13 the real estate affected is registered under the Registered
14 Titles (Torrens) Act. The notice shall be in a form as is
15 provided in subsection (a). An owner or tenant who
16 institutes an action in circuit court seeking an order to
17 compel the owner or owners of record to demolish, remove
18 materials from, repair, or enclose any dangerous or unsafe
19 building, or to cause that action to be taken under this
20 subsection may recover court costs and reasonable attorney's
21 fees for instituting the action from the owner or owners of
22 record of the building. Upon payment of the costs and
23 expenses by the owner or a person interested in the
24 property after the notice of lien has been filed, the lien
25 shall be released by the municipality or the person in whose
26 name the lien has been filed or his or her assignee, and the
27 release may be filed of record as in the case of filing a
28 notice of lien. Unless the lien is enforced under subsection
29 (c), the lien may be enforced by foreclosure proceedings as
30 in the case of mortgage foreclosures under Article XV of the
31 Code of Civil Procedure or mechanics' lien foreclosures. An
32 action to foreclose this lien may be commenced at any time
33 after the date of filing of the notice of lien. The costs of
34 foreclosure incurred by the municipality, including court

1 costs, reasonable attorneys' fees, advances to preserve the
2 property, and other costs related to the enforcement of this
3 subsection, plus statutory interest, are a lien on the real
4 estate and are recoverable by the municipality from the owner
5 or owners of the real estate.

6 All liens arising under the terms of this subsection (b)
7 shall be assignable. The assignee of the lien shall have the
8 same power to enforce the lien as the assigning party, except
9 that the lien may not be enforced under subsection (c).

10 (c) In any case where a municipality has obtained a lien
11 under subsection (a), (b), or (f), the municipality may
12 enforce the lien under this subsection (c) in the same
13 proceeding in which the lien is authorized.

14 A municipality desiring to enforce a lien under this
15 subsection (c) shall petition the court to retain
16 jurisdiction for foreclosure proceedings under this
17 subsection. Notice of the petition shall be served, by
18 certified or registered mail, on all persons who were served
19 notice under subsection (a), (b), or (f). The court shall
20 conduct a hearing on the petition not less than 15 days after
21 the notice is served. If the court determines that the
22 requirements of this subsection (c) have been satisfied, it
23 shall grant the petition and retain jurisdiction over the
24 matter until the foreclosure proceeding is completed. The
25 costs of foreclosure incurred by the municipality, including
26 court costs, reasonable attorneys' fees, advances to preserve
27 the property, and other costs related to the enforcement of
28 this subsection, plus statutory interest, are a lien on the
29 real estate and are recoverable by the municipality from the
30 owner or owners of the real estate. If the court denies the
31 petition, the municipality may enforce the lien in a separate
32 action as provided in subsection (a), (b), or (f).

33 All persons designated in Section 15-1501 of the Code of
34 Civil Procedure as necessary parties in a mortgage

1 foreclosure action shall be joined as parties before issuance
2 of an order of foreclosure. Persons designated in Section
3 15-1501 of the Code of Civil Procedure as permissible parties
4 may also be joined as parties in the action.

5 The provisions of Article XV of the Code of Civil
6 Procedure applicable to mortgage foreclosures shall apply to
7 the foreclosure of a lien under this subsection (c), except
8 to the extent that those provisions are inconsistent with
9 this subsection. For purposes of foreclosures of liens
10 under this subsection, however, the redemption period
11 described in subsection (b) of Section 15-1603 of the Code of
12 Civil Procedure shall end 60 days after the date of entry of
13 the order of foreclosure.

14 (d) In addition to any other remedy provided by law, the
15 corporate authorities of any municipality may petition the
16 circuit court to have property declared abandoned under this
17 subsection (d) if:

18 (1) the property has been tax delinquent for 2 or
19 more years or bills for water service for the property
20 have been outstanding for 2 or more years;

21 (2) the property is unoccupied by persons legally
22 in possession; and

23 (3) the property contains a dangerous or unsafe
24 building.

25 All persons having an interest of record in the property,
26 including tax purchasers and beneficial owners of any
27 Illinois land trust having title to the property, shall be
28 named as defendants in the petition and shall be served with
29 process. In addition, service shall be had under Section
30 2-206 of the Code of Civil Procedure as in other cases
31 affecting property.

32 The municipality, however, may proceed under this
33 subsection in a proceeding brought under subsection (a) or
34 (b). Notice of the petition shall be served by certified or

1 registered mail on all persons who were served notice under
2 subsection (a) or (b).

3 If the municipality proves that the conditions described
4 in this subsection exist and the owner of record of the
5 property does not enter an appearance in the action, or, if
6 title to the property is held by an Illinois land trust, if
7 neither the owner of record nor the owner of the beneficial
8 interest of the trust enters an appearance, the court shall
9 declare the property abandoned.

10 If that determination is made, notice shall be sent by
11 certified or registered mail to all persons having an
12 interest of record in the property, including tax purchasers
13 and beneficial owners of any Illinois land trust having title
14 to the property, stating that title to the property will be
15 transferred to the municipality unless, within 30 days of the
16 notice, the owner of record enters an appearance in the
17 action, or unless any other person having an interest in the
18 property files with the court a request to demolish the
19 dangerous or unsafe building or to put the building in safe
20 condition.

21 If the owner of record enters an appearance in the action
22 within the 30 day period, the court shall vacate its order
23 declaring the property abandoned. In that case, the
24 municipality may amend its complaint in order to initiate
25 proceedings under subsection (a).

26 If a request to demolish or repair the building is filed
27 within the 30 day period, the court shall grant permission to
28 the requesting party to demolish the building within 30 days
29 or to restore the building to safe condition within 60 days
30 after the request is granted. An extension of that period
31 for up to 60 additional days may be given for good cause. If
32 more than one person with an interest in the property files a
33 timely request, preference shall be given to the person with
34 the lien or other interest of the highest priority.

1 If the requesting party proves to the court that the
2 building has been demolished or put in a safe condition
3 within the period of time granted by the court, the court
4 shall issue a quitclaim judicial deed for the property to the
5 requesting party, conveying only the interest of the owner of
6 record, upon proof of payment to the municipality of all
7 costs incurred by the municipality in connection with the
8 action, including but not limited to court costs, attorney's
9 fees, administrative costs, the costs, if any, associated
10 with building enclosure or removal, and receiver's
11 certificates. The interest in the property so conveyed shall
12 be subject to all liens and encumbrances on the property. In
13 addition, if the interest is conveyed to a person holding a
14 certificate of purchase for the property under the Property
15 Tax Code, the conveyance shall be subject to the rights of
16 redemption of all persons entitled to redeem under that Act,
17 including the original owner of record.

18 If no person with an interest in the property files a
19 timely request or if the requesting party fails to demolish
20 the building or put the building in safe condition within the
21 time specified by the court, the municipality may petition
22 the court to issue a judicial deed for the property to the
23 municipality. A conveyance by judicial deed shall operate to
24 extinguish all existing ownership interests in, liens on, and
25 other interest in the property, including tax liens, and
26 shall extinguish the rights and interests of any and all
27 holders of a bona fide certificate of purchase of the
28 property for delinquent taxes. Any such bona fide
29 certificate of purchase holder shall be entitled to a sale in
30 error as prescribed under Section 21-310 of the Property Tax
31 Code.

32 (e) Each municipality may use the provisions of this
33 subsection to expedite the removal of certain buildings that
34 are a continuing hazard to the community in which they are

1 located.

2 If a residential or commercial building is 3 stories or
3 less in height as defined by the municipality's building
4 code, and the corporate official designated to be in charge
5 of enforcing the municipality's building code determines that
6 the building is open and vacant and an immediate and
7 continuing hazard to the community in which the building is
8 located, then the official shall be authorized to post a
9 notice not less than 2 feet by 2 feet in size on the front of
10 the building. The notice shall be dated as of the date of
11 the posting and shall state that unless the building is
12 demolished, repaired, or enclosed, and unless any garbage,
13 debris, and other hazardous, noxious, or unhealthy substances
14 or materials are removed so that an immediate and continuing
15 hazard to the community no longer exists, then the building
16 may be demolished, repaired, or enclosed, or any garbage,
17 debris, and other hazardous, noxious, or unhealthy substances
18 or materials may be removed, by the municipality.

19 Not later than 30 days following the posting of the
20 notice, the municipality shall do all of the following:

21 (1) Cause to be sent, by certified mail, return
22 receipt requested, a Notice to Remediate to all owners
23 of record of the property, the beneficial owners of any
24 Illinois land trust having title to the property, and all
25 lienholders of record in the property, stating the intent
26 of the municipality to demolish, repair, or enclose the
27 building or remove any garbage, debris, or other
28 hazardous, noxious, or unhealthy substances or materials
29 if that action is not taken by the owner or owners.

30 (2) Cause to be published, in a newspaper published
31 or circulated in the municipality where the building is
32 located, a notice setting forth (i) the permanent tax
33 index number and the address of the building, (ii) a
34 statement that the property is open and vacant and

1 constitutes an immediate and continuing hazard to the
2 community, and (iii) a statement that the municipality
3 intends to demolish, repair, or enclose the building or
4 remove any garbage, debris, or other hazardous, noxious,
5 or unhealthy substances or materials if the owner or
6 owners or lienholders of record fail to do so. This
7 notice shall be published for 3 consecutive days.

8 (3) Cause to be recorded the Notice to Remediate
9 mailed under paragraph (1) in the office of the recorder
10 in the county in which the real estate is located or in
11 the office of the registrar of titles of the county if
12 the real estate is registered under the Registered Title
13 (Torrens) Act.

14 Any person or persons with a current legal or equitable
15 interest in the property objecting to the proposed actions of
16 the corporate authorities may file his or her objection in an
17 appropriate form in a court of competent jurisdiction.

18 If the building is not demolished, repaired, or enclosed,
19 or the garbage, debris, or other hazardous, noxious, or
20 unhealthy substances or materials are not removed, within 30
21 days of mailing the notice to the owners of record, the
22 beneficial owners of any Illinois land trust having title to
23 the property, and all lienholders of record in the property,
24 or within 30 days of the last day of publication of the
25 notice, whichever is later, the corporate authorities shall
26 have the power to demolish, repair, or enclose the building
27 or to remove any garbage, debris, or other hazardous,
28 noxious, or unhealthy substances or materials.

29 The municipality may proceed to demolish, repair, or
30 enclose a building or remove any garbage, debris, or other
31 hazardous, noxious, or unhealthy substances or materials
32 under this subsection within a 120-day period following the
33 date of the mailing of the notice if the appropriate official
34 determines that the demolition, repair, enclosure, or removal

1 of any garbage, debris, or other hazardous, noxious, or
2 unhealthy substances or materials is necessary to remedy the
3 immediate and continuing hazard. If, however, before the
4 municipality proceeds with any of the actions authorized by
5 this subsection, any person with a legal or equitable
6 interest in the property has sought a hearing under this
7 subsection before a court and has served a copy of the
8 complaint on the chief executive officer of the municipality,
9 then the municipality shall not proceed with the demolition,
10 repair, enclosure, or removal of garbage, debris, or other
11 substances until the court determines that that action is
12 necessary to remedy the hazard and issues an order
13 authorizing the municipality to do so.

14 Following the demolition, repair, or enclosure of a
15 building, or the removal of garbage, debris, or other
16 hazardous, noxious, or unhealthy substances or materials
17 under this subsection, the municipality may file a notice of
18 lien against the real estate for the cost of the demolition,
19 repair, enclosure, or removal within 180 days after the
20 repair, demolition, enclosure, or removal occurred, for the
21 cost and expense incurred, in the office of the recorder in
22 the county in which the real estate is located or in the
23 office of the registrar of titles of the county if the real
24 estate affected is registered under the Registered Titles
25 (Torrens) Act; this lien has priority over the interests of
26 those parties named in the Notice to Remediate mailed under
27 paragraph (1), but not over the interests of third party
28 purchasers or encumbrancers for value who obtained their
29 interests in the property before obtaining actual or
30 constructive notice of the lien. The notice of lien shall
31 consist of a sworn statement setting forth (i) a description
32 of the real estate, such as the address or other description
33 of the property, sufficient for its identification; (ii) the
34 expenses incurred by the municipality in undertaking the

1 remedial actions authorized under this subsection; (iii) the
2 date or dates the expenses were incurred by the municipality;
3 (iv) a statement by the corporate official responsible for
4 enforcing the building code that the building was open and
5 vacant and constituted an immediate and continuing hazard to
6 the community; (v) a statement by the corporate official that
7 the required sign was posted on the building, that notice was
8 sent by certified mail to the owners of record, and that
9 notice was published in accordance with this subsection; and
10 (vi) a statement as to when and where the notice was
11 published. The lien authorized by this subsection may
12 thereafter be released or enforced by the municipality as
13 provided in subsection (a).

14 (f) The corporate authorities of each municipality may
15 remove or cause the removal of, or otherwise environmentally
16 remediate hazardous substances and petroleum products on, in,
17 or under any abandoned and unsafe property within the
18 territory of a municipality. In addition, where preliminary
19 evidence indicates the presence or likely presence of a
20 hazardous substance or a petroleum product or a release or a
21 substantial threat of a release of a hazardous substance or a
22 petroleum product on, in, or under the property, the
23 corporate authorities of the municipality may inspect the
24 property and test for the presence or release of hazardous
25 substances and petroleum products. In any county having
26 adopted by referendum or otherwise a county health department
27 as provided by Division 5-25 of the Counties Code or its
28 predecessor, the county board of that county may exercise the
29 above-described powers with regard to property within the
30 territory of any city, village, or incorporated town having
31 less than 50,000 population.

32 For purposes of this subsection (f):

33 (1) "property" or "real estate" means all real
34 property, whether or not improved by a structure;

- 1 (2) "abandoned" means;
- 2 (A) the property has been tax delinquent for 2
- 3 or more years;
- 4 (B) the property is unoccupied by persons
- 5 legally in possession; and
- 6 (3) "unsafe" means property that presents an actual
- 7 or imminent threat to public health and safety caused by
- 8 the release of hazardous substances; and
- 9 (4) "hazardous substances" means the same as in
- 10 Section 3.14 of the Environmental Protection Act.

11 The corporate authorities shall apply to the circuit
12 court of the county in which the property is located (i) for
13 an order allowing the municipality to enter the property and
14 inspect and test substances on, in, or under the property; or
15 (ii) for an order authorizing the corporate authorities to
16 take action with respect to remediation of the property if
17 conditions on the property, based on the inspection and
18 testing authorized in paragraph (i), indicate the presence of
19 hazardous substances or petroleum products. Remediation shall
20 be deemed complete for purposes of paragraph (ii) above when
21 the property satisfies Tier I, II, or III remediation
22 objectives for the property's most recent usage, as
23 established by the Environmental Protection Act, and the
24 rules and regulations promulgated thereunder. Where, upon
25 diligent search, the identity or whereabouts of the owner or
26 owners of the property, including the lien holders of record,
27 is not ascertainable, notice mailed to the person or persons
28 in whose name the real estate was last assessed is sufficient
29 notice under this Section.

30 The court shall grant an order authorizing testing under
31 paragraph (i) above upon a showing of preliminary evidence
32 indicating the presence or likely presence of a hazardous
33 substance or a petroleum product or a release of or a
34 substantial threat of a release of a hazardous substance or a

1 petroleum product on, in, or under abandoned property. The
2 preliminary evidence may include, but is not limited to,
3 evidence of prior use, visual site inspection, or records of
4 prior environmental investigations. The testing authorized
5 by paragraph (i) above shall include any type of
6 investigation which is necessary for an environmental
7 professional to determine the environmental condition of the
8 property, including but not limited to performance of soil
9 borings and groundwater monitoring. The court shall grant a
10 remediation order under paragraph (ii) above where testing of
11 the property indicates that it fails to meet the applicable
12 remediation objectives. The hearing upon the application to
13 the circuit court shall be expedited by the court and shall
14 be given precedence over all other suits.

15 The cost of the inspection, testing, or remediation
16 incurred by the municipality or by a lien holder of record,
17 including court costs, attorney's fees, and other costs
18 related to the enforcement of this Section, is a lien on the
19 real estate; except that in any instances where a
20 municipality incurs costs of inspection and testing but finds
21 no hazardous substances or petroleum products on the property
22 that present an actual or imminent threat to public health
23 and safety, such costs are not recoverable from the owners
24 nor are such costs a lien on the real estate. The lien is
25 superior to all prior existing liens and encumbrances, except
26 taxes and any lien obtained under subsection (a) or (e), if,
27 within 180 days after the completion of the inspection,
28 testing, or remediation, the municipality or the lien holder
29 of record who incurred the cost and expense shall file a
30 notice of lien for the cost and expense incurred in the
31 office of the recorder in the county in which the real estate
32 is located or in the office of the registrar of titles of the
33 county if the real estate affected is registered under the
34 Registered Titles (Torrens) Act.

1 The notice must consist of a sworn statement setting out
2 (i) a description of the real estate sufficient for its
3 identification, (ii) the amount of money representing the
4 cost and expense incurred, and (iii) the date or dates when
5 the cost and expense was incurred by the municipality or the
6 lien holder of record. Upon payment of the lien amount by
7 the owner of or persons interested in the property after the
8 notice of lien has been filed, a release of lien shall be
9 issued by the municipality, the person in whose name the lien
10 has been filed, or the assignee of the lien, and the release
11 may be filed of record as in the case of filing notice of
12 lien.

13 The lien may be enforced under subsection (c) or by
14 foreclosure proceedings as in the case of mortgage
15 foreclosures under Article XV of the Code of Civil Procedure
16 or mechanics' lien foreclosures; provided that where the lien
17 is enforced by foreclosure under subsection (c) or under
18 either statute, the municipality may not proceed against the
19 other assets of the owner or owners of the real estate for
20 any costs that otherwise would be recoverable under this
21 Section but that remain unsatisfied after foreclosure except
22 where such additional recovery is authorized by separate
23 environmental laws. An action to foreclose this lien may be
24 commenced at any time after the date of filing of the notice
25 of lien. The costs of foreclosure incurred by the
26 municipality, including court costs, reasonable attorney's
27 fees, advances to preserve the property, and other costs
28 related to the enforcement of this subsection, plus statutory
29 interest, are a lien on the real estate.

30 All liens arising under this subsection (f) shall be
31 assignable. The assignee of the lien shall have the same
32 power to enforce the lien as the assigning party, except that
33 the lien may not be enforced under subsection (c).

34 (g) In any case where a municipality has obtained a lien

1 under subsection (a), the municipality may also bring an
2 action for a money judgment against the owner or owners of
3 the real estate in the amount of the lien in the same manner
4 as provided for bringing causes of action in Article II of
5 the Code of Civil Procedure and, upon obtaining a judgment,
6 file a judgment lien against all of the real estate of the
7 owner or owners and enforce that lien as provided for in
8 Article XII of the Code of Civil Procedure.

9 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00;
10 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff.
11 1-1-00; 92-16, eff. 6-28-01.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.